

REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.111
Attorney Docket No.: Q80555
Application No.: 10/803,876

REMARKS

Claims 1-17 are all the claims pending in the application. Claims 1-17 presently stand rejected.

Claims 1-10 and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Trucco et al. (2005/0033167).

Claim 11 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Trucco et al. (2005/0033167) in view of Drukarey et al. (5,105,814).

Claims 12-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Trucco et al. (2005/0033167) in view of Drukarey et al. (5,105,814) and Ebbini et al. (2003/0212326).

Claim 16 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Trucco et al. (2005/0033167) in view of Ebbini et al. (2003/0212326).

Analysis

Applicant respectfully notes that the Trucco reference is not actually prior art to the present invention. The U.S. filing date of the pending application is **March 19, 2004**. The U.S. filing date of Trucco is **May 24, 2004**. Thus, Trucco was filed in the U.S. PTO after Applicant's application was filed.

In view of the foregoing, Trucco does not qualify as prior art under § 102, which is required in order for it to be applied in an obviousness rejection under § 103(a).

In view of the foregoing, Applicant respectfully requests the Examiner to remove Trucco as prior art against the pending claims.

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With the removal of Trucco, the combination of the remaining cited references fail to teach or suggest the claimed invention. Therefore, Applicant respectfully requests the Examiner to reconsider and withdraw all prior art rejections against the pending claims.

Statement of Substance of Interviews

Applicant thanks the Examiner for the courtesies extended during the telephone interview of August 12, 2007. During that call, no substantive issues were discussed regarding the claimed subject matter of the pending application. However, Applicant notified Examiner of the improper citation of the Trucco reference, at which time the Examiner agreed that this reference does not actually qualify as prior art and that a new Office Action would be issued.

In a telephone message received from the Examiner on November 5, 2007 in response to Applicant's status inquiry of this Application, the Examiner advised Applicant that a formal response should be filed in order for Applicant to receive a new action on the merits.

Accordingly, Applicant is filing the instant Request for Reconsideration.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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